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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,690	04/30/2001	Michael Leong	13648NP	9887

33000 7590 09/28/2004

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EXAMINER

BRINEY III, WALTER F

ART UNIT PAPER NUMBER

2644

DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/830,690

Applicant(s)

LEONG ET AL.

Examiner

Walter F Briney III

Art Unit

2644

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attached.

3. ☒ Applicant's reply has overcome the following rejection(s): 1-4, 6-9, 11-20, 22-25, 27.
4. ☒ Newly proposed or amended claim(s) 1-4, 6-9, 11-20, 22-25 and 27 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.

Claims 1-4, 6-9, 11-20, 22-25, and 27 have been amended to include the limitation:

"said signal processing functional block being further operative to terminate said processing period when the currently computed confidence level and an amount of time remaining in said processing period indicate that the certain cadence is unlikely to be detected before reaching the end of said processing period."

The examiner rejected this limitation in the Final office action mailed 03 June 2004. The applicant's arguments concerning this limitation - see the Amendment after Final, mailed 03 August 2004, pages 15-17 - are persuasive, and thus, the examiner withdraws the rejection of this limitation.

Furthermore, claims 1-4, 6-9, 11-20, 22-25, and 27 now include this limitation in its entirety, which makes them allowable over Novas (US Patent 5,023,906).

Claims 5, 10, 21, and 26 have been cancelled.

Claims 28-35 include new limitations, which would require further search and consideration. Therefore, the proposed amendments of claims 28-33 and the addition of claims 34 and 35 have not been considered.

As indicated on form PTOL-303 of this action, canceling of claims 28-35 would render the application allowable over Novas.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter F Briney III whose telephone number is 703-305-0347. The examiner can normally be reached on M-F 8am - 4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W Isen can be reached on 703-305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WFB
9/20/04


XU MEI
PRIMARY EXAMINER